IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

Bail Appl..No. 7509 of 2007()

(CRIME NO.895/2007 OF ADOOR POLICE STATION)

.....

PETITIONER/ACCUSED

MANOJ KUMAR.S., S/O.SADASIVAN PILLAI,
PUNOUR VEEDU, KOTTAKARA, CHANDANATHOPU (PO),
KOLLAM DISTRICT.

BY ADV. SRI.NAGARAJ NARAYANAN

RESPONDENTS: STATE

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7509 OF 2007 A

Dated this the 6th day of December, 2007

O R D E R

Application for anticipatory bail. The petitioner – a police constable, faces allegations in a crime registered for offences punishable, inter alia, under Sections 420, 468 and 409 IPC. The crux of the allegations against him is that he presented forged indents/requisitions before a petrol bunk to make it appear that such requisitions were issued from the competent official in the police department and took away petrol/its value in money from the petrol bunk. A crime was registered on 22.10.07. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The F.I. Statement shows that the allegation raised is that on the strength of forged indent, money has been collected from the petrol bunk. Money cannot be collected from the petrol bunk by anyone even on the basis of genuine requisitions/indent issued. In these circumstances, the

very allegations must arouse suspicions. The petitioner may be granted anticipatory bail, prays the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. Even assuming that there was some irregularity in the petrol bunk releasing the value/money of the petrol to the petitioner, that cannot certainly justify a claim for anticipatory bail by the petitioner. The petitioner has to be arrested and interrogated and details will have to be ascertained from him. If there be any colluding co-accused, he will also have to be brought on the array of accused. In any view of the matter, the petitioner does not deserve to be granted anticipatory bail in the facts and circumstances of the case, submits the learned Public Prosecutor.

4. I have perused the case diary. I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the investigating

officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

aks